

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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WINDWARD BORA LLC,

Plaintiff,

-against-

MEMORANDUM AND ORDER

Case No. 19-CV-3912 (FB) (CLP)

SHAUL CHAZON, et al

Defendants.

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BLOCK, Senior District Judge:

Magistrate Judge Pollak issued a Report and Recommendation (“R&R”) recommending that a default judgment be entered against the defendants in the amount of \$150,883.27, representing \$111,902.87 in unpaid principal and \$38,980.40 in past due interest owed. The R&R further recommended that the foreclosure and sale of the Subject Premises proceed as set forth in the Amended Proposed Order, which is attached to the R&R, under the direction of Susan Ellen Rizoz, Esq as referee. Lastly, the R&R recommended that Susan Ellen Rizos, Esq. be paid \$500 from the proceeds of the sale, and that plaintiff be awarded from the sale any sums expended for taxes, assessments, water rates and sewer penalties, interest and penalties accrued, and any additional costs for the expenses of the sale and the advertising expenses as shown on the bills presented to said Referee and certified by her.

The R&R warned that “[f]ailure to file objections within the specified time waives the right to appeal.” R&R at 11. The Court then entered an order setting January 22, 2020, as the deadline for objections. No objections have been filed.

Where clear notice has been given of the consequences of failure to object, and there are no objections, the Court may adopt the R&R without de novo review. *See Thomas v. Arn*, 474 U.S. 140, 149-50 (1985); *Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) (“Where parties receive clear notice of the consequences, failure timely to object to a magistrate’s report and recommendation operates as a waiver of further judicial review of the magistrate’s decision.”). The Court will, however, excuse the failure to object and conduct de novo review if it appears that the magistrate judge may have committed plain error. *See Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000).

No error, plain or otherwise, appears on the face of the R&R, so the Court adopts it without de novo review. Accordingly, the Clerk shall enter judgment in favor of the plaintiff and against the defendants in the amount of \$150,883.27. The Court also orders that the foreclosure and sale of the Subject Premises proceed as set forth in the Amended Proposed Order, under the direction of Susan Ellen Rizos, Esq. as Referee. Lastly, the Court orders Susan Ellen Rizos, Esq. be paid \$500 from the proceeds of the sale, and that plaintiff be awarded from the sale any

sums expended for taxes, assessments, water rates and sewer penalties, interest and penalties accrued, and any additional costs for the expenses of the sale and the advertising expenses as shown on the bills presented to said Referee and certified by her.

SO ORDERED.

/S/ Frederic Block
FREDERIC BLOCK
Senior United States District Judge

Brooklyn, New York
March 2, 2020